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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,906	02/05/2004	Volker Wack	WACK, V. ET AL.-2 (Cont)	5223
25889	7590	07/26/2005	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			TANNER, HARRY B	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/772,906	WACK ET AL.	
	Examiner	Art Unit	
	Harry B. Tanner	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 May 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Shirmohamadi. Shimizu discloses the invention substantially as claimed. Shimizu discloses an electronic mixed water preparation device connected to a plurality of water feeding systems 43A-C and having an operating unit 7A with indicator 74A and input means 73A-F for presetting a nominal value, electronic controller unit 50 acting on a control line for preparing mixed water via a mechanical setting element 21 operated by stepping motor 31 wherein the controller unit and the mechanical setting element are arranged in one single compact device 10 suited for mounting under plaster. Shirmohamadi teaches the use of a single rotatably supported setting body 110 for mixing the hot and cold water corresponding with its rotational position. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it used a single rotatably supported setting body in order to control the mixing of the hot and cold water rather than the sliding valve 15 in order to reduce the cost of the valve means in view of the teachings of Shirmohamadi.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Shirmohamadi as applied to claim 1 above, and further in view of Garris. Shimizu discloses a micro-controller 51 which inherently is connected to data and

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program memory. Garris teaches the use of an interface module 20 for connecting elements of a temperature control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it included the use of an interface module for connecting elements of the temperature control in view of the teachings of Garris.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al in view of Shirmohamadi as applied to claim above, and further in view of Garvey et al. Shimizu discloses a plurality of system functions set by the operating unit. Garvey teaches the use of a menu means in order to allow the user to program various system functions (see col. 13, lines 3-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Shimizu such that it included the use of a menu means in order to allow the user to program various system functions in view of the teachings of Garvey.

Applicant's arguments filed on May 5, 2005 have been fully considered but they are not persuasive. For example, with respect to applicant's contention that the computer unit of 30 of Shirmohamadi is clearly mounted above plaster, it is noted that Shirmohamadi was not cited as a teaching of mounting the computer unit below the plaster. The primary reference discloses that arrangement. With respect to applicant's contention that Shirmohamadi does not teach a single rotatably supported setting body for mixing hot and cold water, it is pointed out that Figure 5B shows hot water inlet 190 and cold water inlet 180 connected to valve 110 and a single shaft 100 entering the valve in which the rotational position of the shaft determines the mixture of hot and cold

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water that flows to outlet 210. It is immaterial that Shirmohamadi does not show the internal details of valve 110 since it clearly teaches a single rotatably supported setting body for mixing hot and cold water.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler, can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harry B. Tanner
Primary Examiner
Art Unit 3744